

**NOT FOR PUBLICATION**

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

INTERNATIONAL UNION OF OPERATING  
ENGINEERS LOCAL 825 EMPLOYEE  
BENEFITS FUNDS AND THE TRUSTEES  
THEREOF,

Petitioner,

v.

GUSTAFSON EXCAVATING, INC., JOHN,

Respondent.

Civil Action No.: 10-5908 (JLL)

**ORDER**

This matter comes before the Court pursuant to an Order to Show Cause filed by this Court on February 27, 2012, requiring Respondent to show cause, before Magistrate Judge Michael Hammer on March 19, 2012, at 12:30 p.m., why Judge Hammer “should not issue to the District Judge a report and recommendation that Respondent be held in contempt for failing to follow the Court’s September 6, 2011 Order to provide discovery.” [Docket Entry No. 10]. On March 19, 2012, Magistrate Judge Michael Hammer issued a Report and Recommendation that this Court hold Respondent in contempt for failure to comply with this Court’s September 6, 2011, Order. [Docket Entry No. 16]. Petitioner duly filed Certification of Service of Judge Hammer’s Report and Recommendation on Respondent. [Docket Entry Nos. 17, 18]. No objections to said Report and Recommendation have been filed. The Court has considered the unopposed submissions of Petitioner, and Judge Hammer’s Report and Recommendation dated March 19, 2012, and for substantially the same reasons stated therein,

**IT IS on this 16<sup>th</sup> day of April, 2012,**

**ORDERED** that this Court hereby **ADOPTS** Judge Hammer’s March 19, 2012 Report and Recommendation as the findings of fact and conclusions of law of this Court; and it is further

**ORDERED** that Respondent is in contempt for failing to follow this Court's September 6, 2011 Order to provide discovery. Respondent may purge itself of contempt by providing discovery as ordered in this Court's September 6, 2011 Order; and it is further

**ORDERED** that Respondent shall appear and show cause before Magistrate Judge Michael Hammer why sanctions should not issue as a result of this contempt finding, on **April 26, 2012 at 12 p.m.** at the **Martin Luther King Jr. Courthouse, 3<sup>rd</sup> Floor, Courtroom 3C.**

**IT IS SO ORDERED.**

/s/ Jose L. Linares  
Jose L. Linares  
United States District Judge